

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

UNITED STATES OF AMERICA

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v.

CRIMINAL NO. 1:06-CR-057-001

JOHN TOBY WALKER

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**REPORT AND RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

On June 18, 2015, the Court conducted a hearing to consider the government's petition to revoke the supervised release of Defendant. The government was represented by Mary Ann Cozby, Assistant United States Attorney for the Eastern District of Texas, and Defendant was represented by Ken Hawk.

On January 24, 2007, Defendant John Toby Walker was sentenced before U.S. District Judge Thad Heartfield after pleading guilty to the offense of Possession of Child Pornography, a Class C felony. This offense carried a statutory maximum imprisonment term of 10 years. The United States Sentencing Guideline range, based on a total offense level of 30 and a criminal history category of I, was 97 to 121 months. Defendant was sentenced to 97 months imprisonment followed by a 3 year term of supervised release, subject to the standard conditions of release, plus special conditions including, in pertinent part, that Defendant: shall report to the probation officer as directed by the Court or probation officer, and shall submit a truthful and complete written report within the first five days of each month; shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons; and shall notify the probation officer ten days prior to any change of residence or

employment. On February 6, 2014, Defendant completed the term of imprisonment and began his period of supervised release.

In its petition, the government alleges in pertinent part that Defendant violated the terms of supervised release when Defendant: failed to report to the probation office and failed to submit a complete written report within the first five days of the month of June 2015; was terminated from his last known place of employment on or about May 20, 2015 and was not excused by the probation office for any acceptable reason; and failed to notify the probation office he had been terminated from his last known place of employment, and failed to notify the probation office of a change of address after the probation officer made several unsuccessful home visit attempts in May 2015. Should the Court find that Defendant violated the conditions of supervised release, Defendant will be in violation of conditions of his supervision, and be guilty of committing a Grade C violation. U.S.S.G. § 7B1.3(a)(2) indicates that upon a finding of a Grade C violation, the Court may revoke probation or supervised release or extend the term of probation or supervised release and/or modify the conditions of supervision. Considering Defendant's criminal history category of I, the Guideline imprisonment range for a Grade C violation is 3 to 9 Months. U.S.S.G. § 7B1.4(a).

At the June 18, 2015 hearing, Defendant pled true to the allegations above. The government recommended that Defendant John Toby Walker be committed to the Bureau of Prisons for 3 months with 18 months supervised release to follow. It is also recommended that up to 180 days of the supervised release consist of halfway house confinement.

Pursuant to the Sentencing Reform Act of 1984, the Court **RECOMMENDS** that Defendant John Toby Walker be committed to the custody of the Bureau of Prisons for a term of 3 months with 18 months supervised release to follow. The Court further **RECOMMENDS** that

for up to 180 days of the supervised release term the Defendant shall reside in a Community Confinement Center or Community Sanction Center or until such time as the Defendant is able to establish a residence at which time the U.S. Probation Office can release him from the facility to commence immediately.

Defendant has waived his right to object to the findings of the Magistrate Judge in this matter so the Court will present this Report and Recommendation to U.S. District Judge Thad Heartfield for adoption immediately upon issuance.

So ORDERED and SIGNED this 18th day of June, 2015.



JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE